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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,539	01/15/2004	Chin-Tien Lin	GRE 112	4566

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EXAMINER

GILBERT, SAMUEL G

ART UNIT

PAPER NUMBER

3735

DATE MAILED: 03/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/757,539	LIN, CHIN-TIEN	
	Examiner	Art Unit	
	Samuel G. Gilbert	3735	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Drawings

The drawings are objected to because the proper projection in figure 2 has not been identified with a numeric label. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 – it is unclear if “a vibration-transmitting device” line 16 is the same as “a vibration-transmitting device” line 5. In line 27, “make or break with the spinning knob” is indefinite because it is unclear what the applicant is attempting to claim.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 1 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Lines 23-27 set forth the structure of the device adjusting the tightness and binding/fixing the device to the root of the penis, which positively includes the penis in the claimed structure. To remove the penis from the positively recited language of the claim “adapted to” language may be used.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Adam & Eve 16A-S page 50, "High-Tech Tickler", hereinafter "Tickler" in view of Adam & Eve 16A-S page 15 Utopia Vibrating Love Ring, herein after "Utopia", Adam & Eve 16A-S page 45 The Matador; French Ticklers, page 16 Pleasures Catalog; Zusmanovsky (5,065,744) and Tavel (3,451,391).

The Tickler teaches a device having a pipe shaped body with an insertable vibration-transmitting device, the surface of the body includes a plurality of soft massage protrusions but a proper protrusion with several soft extensions are not set forth. In the absence of showing any criticality in the exact shape/structure of the stimulating structure on the pipe shaped body it is the examiner's position that any shape/structure may be used as an ordinary design expedient. Utopia sets forth a device having a plurality of protrusions covering the surface of the device, the Matador includes the head of a bull including the horns, while the French Ticklers Show a large variety of shaped stimulators including many that have protrusions with soft extensions (top three shown in the bedroom kit). It would have been obvious to one of ordinary skill in the erotic arts to include the protrusion with extensions taught by French Ticklers on the pipe body of the Tickler among the ticklers already set forth as an ordinary design expedient.

Further, the pipe shaped body of the Tickler is adapted to be held onto the penis by a stretchable ring not a fastener strip with a cone and semi-spherical beads and a fastener hole. It would have been obvious to one of ordinary skill in the art at the time

the invention was made to use the fastening elements -9-, -14-, and -15-, -16- and -17- of Tsirjulnikov et al in place of the elastic band taught by the Tickler, the fastening elements of Tsirjulnikov et al does not include a cone shaped leading element. The leading element of the elastic element -9- is a ball. The applicant is given official notice that it is old and well known to use a cone and ball combination on the strap with the cone leading to allow for the strap to easily be inserted into hole.

The vibrator of the Tickler includes a remote power supply and switch not a conductive strip with a bulging hole and a spinning knob. It is well known in the arts to use a wireless vibrator as shown by Utopia. The vibrator of Utopia includes a cap as shown at the bottom of the inset picture which allows batteries to be placed in the vibrator and functions as an on/off switch. The particulars of the switch is not set forth. Tavel sets forth a vibrator including a cap end switch including a conducting strip and two locking members -16- however a spinning post is not set forth, Yu et al. teaches a switch with a post and a conducting strip. In the absence of showing any criticality in the exact type of switch and switch actuator the selection of any particular device would have been an ordinary design expedient. It would have been obvious to one of ordinary skill in the arts at the time the invention was made to use any combination of known switches/actuators such as the post of Yu et al to provide momentary activation in combination with the locking means of Tavel et al to provide hands free operation of the vibrator of the Tickler.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patents/Pubs 4,245,374; 5,065,744; 6,790,189; and 2003/0181835.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Samuel G. Gilbert whose telephone number is 571-272-4725. The examiner can normally be reached on Monday-Friday 6:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ali Imam can be reached on 571-272-4737. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Samuel G. Gilbert
Primary Examiner
Art Unit 3735

sgg